

1987

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS

UNITED STATES OF AMERICA,
PLAINTIFF,

v.

HALLIE C. ORMOND
CC. GRISHAM, and
MARY F. BURKE

DEFENDANTS.

CIVIL ACTION NO.
87-3034

AFFIDAVIT

STATE OF TEXAS

COUNTY OF TEXAS

Before me the undersigned Notary Public, on this day appeared James W. Ingram, who is personally known to me, and being duly sworn upon his oath deposed and said as follows:

"I, James W. Ingram, being of sound mind and over the age of eighteen (18) years do state the following:

"I am employed as an attorney in the Office of Regional Counsel of the United States Environmental Protection Agency (EPA), Region VI, in Dallas, Texas. I have personal knowledge of the facts stated in this Affidavit.

"Until recently I was the EPA attorney assigned to the Arkwood Site. In my capacity as the attorney for the Arkwood Site I have communicated orally with C.C. Grisham and his attorney, Bill F. Doshier concerning access to the Arkwood Site for Mass Merchandisers, Inc. (MMI) and have communicated in writing with Mr. Doshier concerning this issue.

188983



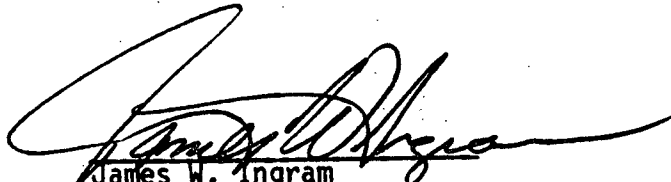
"On November 18, 1986 Ruth L. Izraeli and I met with Mr. Grisham and Mr. Doshier at EPA's offices in Dallas, Texas to discuss access to the Arkwood Site for MMI in order to conduct the Remedial Investigation and Feasibility Study (RI/FS) for the Arkwood Site. During that meeting both Mr. Doshier and Mr. Grisham expressed a willingness to allow EPA to have access to the Site but stated that MMI would not be granted access. They stated that they were concerned that MMI would slant the results of any study it performed in a manner which would support MMI's position that it was not liable for the releases of hazardous waste or hazardous substances at the Arkwood Site and MMI's argument that all liability rests with Mr. Grisham and Hallie C. Ormond.

"On December 8, 1986 I wrote a letter to Mr. Bill F. Doshier discussing site access under Section 104(a) of the Comprehensive Environmental Response, Compensation and Liability Act as amended by the Superfund Amendments and Reauthorization Act (CERCLA). In that letter I encouraged Mr. Grisham and Mr. Doshier to reconsider granting access to MMI voluntarily. A copy of this letter is provided as Exhibit 1. I received no response from Mr. Doshier or Mr. Grisham to my letter of December 8, 1986.

"On February 4, 1987 I sent a second letter to Mr. Doshier. In addition to other matters discussed in that letter I requested that Mr. Doshier immediately inform MMI in writing that it could initiate the on-site work required in the RI/FS Work Plan if site access was to be granted by Mr. Grisham. I further stated that I would assume that site access would not be granted unless I heard to the contrary by March 6, 1987. Once again, I

received no response to my letter. A copy of the February 4, 1987 letter is attached as Exhibit 2.

"Further I say nothing.


James W. Ingram



Margaret A. Moore-Smith
MARGARET A. MOORE-SMITH
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES 4-20-91